

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

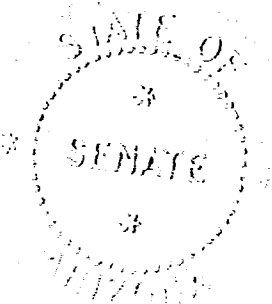
CHAPTER 268

HOUSE BILL 2115

AN ACT

AMENDING SECTIONS 4-241 AND 28-3309, ARIZONA REVISED STATUTES; RELATING TO MINORS AND ALCOHOL.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 4-241, Arizona Revised Statutes, is amended to
3 read:

4 4-241. Selling or giving liquor to underage person; illegally
5 obtaining liquor by underage person; violation;
6 classification

7 A. A licensee, an employee or any other person who questions or has
8 reason to question whether or not a person ordering, purchasing, attempting
9 to purchase or otherwise procuring or attempting to procure the serving or
10 delivery of spirituous liquor is under the legal drinking age shall require
11 the person to exhibit a written instrument of identification and may require
12 the person on a card to be retained by the licensee to sign the person's
13 name, the date, and the number of such identification. The following written
14 instruments are the only acceptable types of identification:

15 1. An unexpired driver license issued by any state or Canada, provided
16 such license includes a picture of the licensee.

17 2. A nonoperating identification license issued pursuant to section
18 28-3165.

19 3. An armed forces identification card.

20 4. A valid unexpired passport or border crossing identification card
21 which is issued by a government or voter card issued by the government of
22 Mexico and which contains a photograph of the person and the PERSON'S date of
23 birth.

24 B. A licensee, an employee or any other person who sells, gives,
25 serves or furnishes spirituous liquor to a person who is under the legal
26 drinking age without having recorded and retained a record of the person's
27 age or a dated and signed photocopy of the instrument of identification
28 exhibited as prescribed by subsection A of this section is deemed to have
29 constructive knowledge of the person's age.

30 C. A person who is under the legal drinking age and who misrepresents
31 the person's age to any person by means of a written instrument of
32 identification with the intent to induce a person to sell, serve, give or
33 furnish spirituous liquor contrary to law is guilty of a class 1 misdemeanor.

34 D. A person who is under the legal drinking age and who solicits
35 another person to purchase, sell, give, serve or furnish spirituous liquor
36 contrary to law is guilty of a class 3 misdemeanor.

37 E. A person who is under the legal drinking age and who uses a
38 fraudulent or false written instrument of identification or identification of
39 another person or uses a valid license or identification of another person to
40 gain access to a licensed establishment is guilty of a class 1 misdemeanor.

41 F. A person who uses a driver or nonoperating identification license
42 in violation of subsection C or E of this section is subject to suspension of
43 the driver or nonoperating identification license as provided in section
44 28-3309. A person who does not have a valid driver or nonoperating
45 identification license and who uses a driver or nonoperating identification

1 license of another in violation of subsection C or E of this section has the
2 person's right to apply for a driver or nonoperating identification license
3 suspended as provided by section 28-3309.

4 G. A person who knowingly influences the sale, giving or serving of
5 spirituous liquor to a person under the legal drinking age by misrepresenting
6 the age of such person or who orders, requests, receives or procures
7 spirituous liquor from any licensee, employee or other person with the intent
8 of selling, giving or serving it to a person under the legal drinking age is
9 guilty of a class 1 misdemeanor. IN ADDITION TO OTHER PENALTIES PROVIDED BY
10 LAW, A JUDGE MAY SUSPEND A DRIVER LICENSE ISSUED TO OR THE DRIVING PRIVILEGE
11 OF A PERSON FOR NOT MORE THAN THIRTY DAYS FOR A FIRST CONVICTION AND NOT MORE
12 THAN SIX MONTHS FOR A SECOND OR SUBSEQUENT CONVICTION UNDER THIS SUBSECTION.

13 H. A person who is of legal drinking age and who is an occupant of
14 unlicensed premises is guilty of a class 1 misdemeanor if both of the
15 following apply:

16 1. Such person knowingly allows a gathering on such unlicensed
17 premises of two or more persons who are under the legal drinking age and who
18 are neither:

19 (a) Members of the immediate family of such person.

20 (b) Permanently residing with such person.

21 2. Such person knows or should know that one or more of the persons
22 under the legal drinking age is in possession of or consuming spirituous
23 liquor on the unlicensed premises.

24 I. For THE purposes of subsection H of this section, "occupant" means
25 a person who has legal possession or the legal right to exclude others from
26 the unlicensed premises.

27 J. A peace officer shall forward or electronically transfer to the
28 director of the department of transportation the affidavit required by
29 section 28-3310 if the peace officer has arrested a person for the commission
30 of an offense for which, on conviction, suspension of the license or
31 privilege to operate a motor vehicle is required by section 28-3309,
32 subsection A, ~~or~~ B OR D.

33 K. A person who acts under a program of testing compliance with this
34 title which is approved by the director is not in violation of section 4-244.

35 L. Law enforcement agencies may use persons who are under the legal
36 drinking age to test compliance with this section and section 4-244,
37 paragraph 9 by licensees suspected of violating this section or section
38 4-244, paragraph 9. A person who is under the legal drinking age and who
39 purchases or attempts to purchase spirituous liquor under the direction of a
40 law enforcement agency pursuant to this subsection is immune from prosecution
41 for that purchase or attempted purchase. Law enforcement agencies may use a
42 person under the legal drinking age pursuant to this subsection only if:

43 1. The person is at least fifteen but not more than nineteen years of
44 age.

45 2. The person is not employed on an incentive or quota basis.

1 3. The person's appearance is that of a person who is under the legal
2 drinking age.

3 4. A photograph of the person is taken no more than twelve hours
4 before the purchase or attempted purchase. The photograph shall accurately
5 depict the person's appearance and attire. A licensee or an employee of a
6 licensee who is cited for selling spirituous liquor to a person under the
7 legal drinking age pursuant to this subsection shall be permitted to inspect
8 the photograph immediately after the citation is issued. The person's
9 appearance at any trial or administrative hearing that results from a
10 citation shall not be substantially different from the person's appearance at
11 the time the citation was issued.

12 5. The person places, receives and pays for the person's order of
13 spirituous liquor. An adult shall not accompany the person onto the premises
14 of the licensee.

15 6. The person does not consume any spirituous liquor.

16 M. The department may adopt rules to carry out the purposes of this
17 section.

18 Sec. 2. Section 28-3309, Arizona Revised Statutes, is amended to read:

19 28-3309. License suspension and denial; improper use by persons
20 under legal drinking age; improper use by persons
21 under eighteen years of age; providing spirituous
22 liquor to a minor; exceptions

23 A. The department shall promptly suspend a driver license or
24 nonoperating identification license issued to or the driving privilege of a
25 person who is under the legal drinking age and who is convicted of using a
26 false or lawfully issued license of this state or any other jurisdiction in
27 violation of section 4-241, subsection C or E for not less than:

28 1. Six months for a first conviction.

29 2. Twelve months for a second or subsequent conviction.

30 B. The department shall promptly deny the right of an otherwise
31 qualified person to apply for a driver and identification license if the
32 person does not have a valid driver or identification license and the person
33 is convicted of using the driver or identification license of another person
34 in violation of section 4-241, subsection C or E or in violation of section
35 13-3403.02, subsection C for not less than:

36 1. Six months for a first conviction.

37 2. Twelve months for a second or subsequent conviction.

38 C. The department shall promptly suspend a driver license or
39 nonoperating identification license issued to or the driving privilege of a
40 person who is under eighteen years of age and who is convicted of using a
41 false or lawfully issued license of this state or any other jurisdiction in
42 violation of section 13-3403.02, subsection C for not less than:

43 1. Six months for a first conviction.

44 2. Twelve months for a second or subsequent conviction.

1 D. IF A JUDGE ORDERS THE SUSPENSION OF A DRIVER LICENSE OR DRIVING
2 PRIVILEGE FOR A VIOLATION OF SECTION 4-241, SUBSECTION G, THE DEPARTMENT
3 SHALL PROMPTLY SUSPEND A DRIVER LICENSE ISSUED TO OR THE DRIVING PRIVILEGE OF
4 THE PERSON FOR THE PERIOD OF TIME ORDERED BY THE JUDGE.

5 E. SUBSECTION D OF THIS SECTION DOES NOT APPLY TO ANY OF THE
6 FOLLOWING:

7 1. A PARENT WHO IS OVER TWENTY-ONE YEARS OF AGE AND WHO GIVES
8 SPIRITUOUS LIQUOR TO THE PARENT'S CHILD IN A PRIVATE RESIDENCE.

9 2. A GUARDIAN WHO IS OVER TWENTY-ONE YEARS OF AGE AND WHO GIVES
10 SPIRITUOUS LIQUOR TO THE GUARDIAN'S WARD IN A PRIVATE RESIDENCE.

11 3. A PERSON WHO GIVES SPIRITUOUS LIQUOR TO ANOTHER PERSON WHO IS UNDER
12 TWENTY-ONE YEARS OF AGE IN CONJUNCTION WITH A RELIGIOUS SERVICE OR CEREMONY
13 PURSUANT TO SECTION 4-249 IF THE SPIRITUOUS LIQUOR WAS LAWFULLY PURCHASED.

14 4. A TITLE 4 LICENSEE AND ITS EMPLOYEES, AS LONG AS THE LICENSEE IS
15 ACTING WITHIN THE SCOPE OF ITS LICENSE AND THE EMPLOYEE IS ACTING WITHIN THE
16 SCOPE OF EMPLOYMENT.


APPROVED BY THE GOVERNOR MAY 9, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2005.

Passed the House March 7, 2005,

by the following vote: 46 Ayes,

8 Nays, 6 Not Voting


Speaker of the House



Chief Clerk of the House

Passed the Senate May 2, 2005,

by the following vote: 22 Ayes,

7 Nays, 1 Not Voting


President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

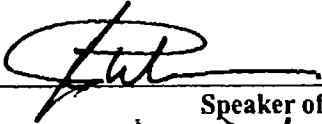
Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 4, 2005,

by the following vote: 47 Ayes,

12 Nays, 1 Not Voting



Speaker of the House



Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

4th day of May, 2005

at 12:25 o'clock P. M.

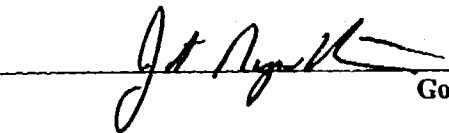


Secretary to the Governor

Approved this 9 day of

May, 2005,

at 4:30 o'clock P. M.



Governor of Arizona

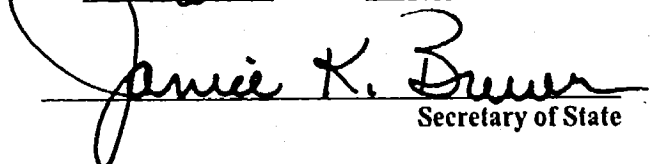
H.B. 2115

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10 day of May, 2005

at 9:26 o'clock A. M.



Secretary of State